THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.20062 of 2006

Date: 7th December, 2007

Between :-

Chundu Pullaiah and 14 others ..

Petitioners

And

The Special Deputy Collector,
(Land Acquisition), Somasila Project
Unit-IV, Rajampet, Kadapa District
And 3 others .. Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.20062 of 2006

ORDER:-

Heard both the Counsel.

2. The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondents in not passing the award with the estimated values of the houses/structures of the petitioners forthwith and not paying compensation to the petitioners together with interest as per the Land Acquisition Act inspite of the order passed by this Court in W.P.No.4945/2001, dated 20-9-2001 as being illegal, arbitrary and violative of Article 14 and 300-A of the

Constitution of India and pass such other suitable orders.

3. It is stated in the affidavit filed in support of the Writ Petition that the petitioners are having residential structures/houses situated in Kommuru and Konapuram Village, Nandaluru Mandal, Kadapa District since decades and that the petitioners properties are acquired by the respondents for submersion of Somasila Project in Kadapa District. Further it is stated that the Special Deputy Collector, Somasila Project, Unite-IV, Rajampet, Kadapa District has passed Award No.1/2001 dated 20-4-2001. The petitioner previously approached this Court in W.P.No.4945/2001 seeking relief to pass Award and pay compensation in respect of petitioners' house properties and that this Court passed in W.P.No.4945/2001 dt.28-9-2001 the following Order:-

> *"I am afraid, I cannot interfere with the land acquisition proceedings at this stage. It is always open for the petitioners to approach this Court whenever the award is passed contrary to law. Any interference at this stage would amount to preempting the award that is likely to be passed in favour of the petitioners.*
>
> *Therefore, without recording any finding on the merits of the case, Writ Petition is disposed of directing the authorities to pass award in respect*

of the structures, which were notified for acquisition under Section 4(1) of the Act within a period of six weeks from the date of receipt of a copy of this order. No costs."

It is also stated that several communications were addressed by the petitioners to the respondents and last of the letter is dated 9-1-2006 calling upon the respondents to comply with the directions of this Court. But, till today, the respondents have not done so. Further it is stated that the order in the Writ Petition attained finality and they have not questioned the order by filing any Writ Appeal. It is also stated that the authorities have also passed the Award vide Award No.1/2001, dated 20-4-2001. But till today none of the petitioners have been paid any compensation. Further it is averred that the State allowed the order of the learned single Judge in W.P.No.4945/2001, dated 20-10-2001, remain final. Without assailing the correctness of the order, the respondents are bound to implement the same. It is also stated that the State cannot take technical pleas by depriving the petitioners of their of just compensation as directed by this Court. The respondents have chosen not to pay compensation to the petitioners despite the order of the learned single Judge. The entire action of the State, in

the facts and circumstances of the case is *per se* arbitrary and hence violative of Articles 14 and 300-A of the Constitution of India. Further it is averred that the respondents authorities passed award No.1/2001, dt.20-4-2001, the Special Deputy Collector, has shown the petitioners house properties/structures but not estimate the value of the petitioners properties. The 1st respondent acted highly arbitrarily, discriminatory and deprived the right of the petitioners as per the Article 300-A of the Constitution of India. The petitioners approached this Court to include the petitioners' structures and pass a separate award and pay compensation forthwith all benefits as per the provisions of the Land Acquisition Act. Further it is stated that the petitioners have got right to seek compensation since their lands together with structures have been acquired by exercising eminent domain power and there is corresponding duty on the part of the respondents to pay compensation or give alternate land in lieu of compensation. It is also averred that since compensation or alternate land has been given, the petitioners have made out a case for interference by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India.

4. Originally, counter affidavit was filed by

respondents 1, 2 and 4 and in the light of the mistake, respondents filed W.P.M.P. No.34163/2007 to receive additional counter affidavit and this Court had ordered the same.

5. In the additional counter affidavit substantially almost all the averments in the affidavit had been admitted and further it is stated that in compliance with the Orders of this Court, the proposals of Draft Notification and Draft Declaration have been approved by the Special Collector, G.N.S.S. Kadapa, in respect of the above said structures with proportionate land on 28-11-2007 and also stated that the Award would be passed after conducting due enquiry. Further, for the mistake already committed in the original counter affidavit, unconditional apology had been tendered. The said conditional apology is hereby recorded and in the light of the specific stand taken, the Writ Petition is disposed of directing the respondents to pass an Award after conducting due enquiry within a period of two months from the date of receipt of a copy of this order.

6. The Writ Petition is disposed of accordingly. No order as to costs.

_____

Justice P.S.Narayana

7th December, 2007

smr